



New South Wales

Hunters Hill Congregational Church Property Trust Bill 2013

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The objects of this Bill are:

- (a) to constitute a statutory corporation, the Hunters Hill Congregational Church Property Trust (referred to in the proposed Act as the *Trust*), and
- (b) to specify the functions of that statutory corporation, which include holding property on behalf of the Hunters Hill Congregational Church or particular congregations of that Church, and
- (c) to vest in the statutory corporation property held in trust for the Church, or a particular congregation of the Church, without the need to pay duty, and
- (d) to provide for the accountability of the Trust to members of congregations of the Church, and
- (e) to provide for the making by the Trust of Trust rules for the control, management and administration of, and dealings with trust property, the operation of the Trust and the conduct of proceedings of the Trust's Board, and
- (f) to provide for the making by congregations of the Church of congregational rules relating to how the congregations may give directions to the Trust.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Clause 3 defines words and expressions used in the proposed Act and provides that notes do not form part of the proposed Act.

Part 2 Hunters Hill Congregational Church Property Trust

Division 1 Constitution of Trust

Clause 4 provides for the Hunters Hill Congregational Church Property Trust to be established as a corporation.

Clause 5 provides for the constitution of the Board of the Trust.

Clause 6 provides for the Board to conduct the affairs of the Trust.

Division 2 Procedure of Board

Clause 7 specifies some aspects of the procedure of the Board and provides for the other aspects of the procedure of the Board to be governed by the Trust rules.

Clause 8 provides for the election of a Chairperson of the Board.

Division 3 Election and appointment of members of Board

Clause 9 provides for the election of representatives of congregations as members of the Board.

Clause 10 provides for the election of representatives of committees of management as members of the Board.

Clause 11 provides for the appointment of Board-appointed members as members of the Board.

Clause 12 provides for the initial membership of the Board.

Division 4 Members of Board

Clause 13 specifies the circumstances in which members of the Board are taken to have vacated office.

Clause 14 provides for the filling of casual vacancies on the Board.

Clause 15 requires the disclosure of pecuniary interests by members of the Board.

Division 5 Functions of Trust

Clause 16 specifies the purpose of the statutory trust under which the Trust holds property.

Clause 17 specifies the functions of the Trust in relation to property vested in the Trust on behalf of the Church (but not on behalf of a particular congregation) and the other, general functions of the Trust.

Clause 18 specifies the functions of the Trust in relation to property vested in the Trust on behalf of a particular congregation.

Clause 19 empowers the Trust to delegate its functions (with specified limitations) to any member of the Board or to any other person or body prescribed by the Trust rules.

Clause 20 makes it clear that the *Trustee Act 1925* applies to and in respect of the Trust.

Clause 21 enables the Trust to hold property alone or jointly.

Clause 22 provides for the investment of funds by the Trust and enables the Trust to invest, as one fund, money held for different purposes.

Clause 23 enables the Trust to make arrangements with a church of another denomination concerning the use of trust property.

Clause 24 provides that, if the Church resolves to enter into a union with any other branch of the Christian Church, the Trust is authorised to convey property in connection with that union. Such a resolution can only be made if it is approved by a meeting of each congregation of the Church, by an affirmative vote of at least 75% of members of each congregation. If the resolution relates to property held on behalf of a particular congregation, it can only be made if approved by at least 75% of the members of that congregation.

Clause 25 makes it clear that the Church or a congregation may affiliate with the Fellowship of Congregational Churches (New South Wales) and that such affiliation does not result in any property vesting in that Fellowship.

Clause 26 provides for the reimbursement of the Trust in certain circumstances.

Division 6 Trust rules

Clause 27 requires the Trust to make rules for the control, management and administration of, and dealings with, trust property and for the conduct of proceedings of the Board or any committee of management. The proposed section specifies the matters that the Trust rules must address, as a minimum.

Clause 28 provides for the amendment of Trust rules.

Clause 29 requires public notice to be given of Trust rules.

Division 7 Accountability of Trust

Clause 30 requires the Trust to publish, on the website of the Church, information concerning its composition and management.

Clause 31 requires the Board to keep minutes of its proceedings.

Clause 32 requires the minutes of proceedings of the Board to be made available for public inspection at no cost.

Clause 33 requires the Trust to keep accounts.

Clause 34 requires the Trust to prepare financial statements.

Clause 35 requires the Trust to have its financial statements audited.

Clause 36 requires the Trust to prepare, and submit to the annual general meeting of each congregation, a report of the Trust's dealings with, and management of, congregational trust property held on behalf of that congregation during the previous financial year.

Division 8 Execution of instruments by Trust

Clause 37 provides for the custody and use of the seal of the Trust.

Clause 38 provides for the execution on behalf of the Trust of instruments required by law to be in writing and for the entering into of oral contracts on its behalf.

Clause 39 enables the Trust to appoint an agent or attorney to execute documents on its behalf.

Division 9 Miscellaneous

Clause 40 provides that, if a person obtains a receipt for money paid to the Trust, the person will not be liable if the money is subsequently lost or misapplied or is not applied.

Clause 41 entitles members of the Board and others to be indemnified out of trust property against liability for certain things done by them in good faith concerning the property.

Part 3 Vesting of property in Trust

Clause 42 provides for the vesting in the Trust of property currently held in trust for the Church or a congregation. The clause also specifies the effect of the vesting of property in the Trust and makes savings and transitional provisions relating to the vesting of property in the Trust by the proposed section. In particular, it provides that when property vests in the Trust in accordance with the proposed section, the rights, obligations and liabilities of the former trustees in relation to the property will become rights, obligations and liabilities of the Trust.

Clause 43 provides for the vesting in the Trust of property given to, or receivable or recoverable by, the Church in the future.

Clause 44 provides for the vesting in the Trust of property given to, or receivable or recoverable by, any particular congregation in the future.

Part 4 Miscellaneous

Division 1 Congregational rules

Clause 45 requires each congregation to make congregational rules and specifies the matters that the congregational rules must address, as a minimum.

Clause 46 provides for the amendment of congregational rules.

Clause 47 requires public notice to be given of congregational rules.

Division 2 General

Clause 48 provides for the making of regulations under the proposed Act.

Clause 49 provides for the making of savings and transitional regulations consequent on the enactment of the proposed Act or any amendment to the proposed Act.

Clause 50 repeals the *Hunters Hill Congregational Church Act 1977*, which vested some property in certain trustees (who are natural persons) and provided for the vesting of other property in the same trustees. (That same property is vested in the proposed statutory trustee (the Trust) by proposed section 42.)